

ESTTA Tracking number: **ESTTA345012**

Filing date: **04/30/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Group Kaitu, LLC
Granted to Date of previous extension	05/02/2010
Address	9702 Gayton Road #167 Richmond, VA 23233 UNITED STATES

Correspondence information	Group Kaitu, LLC 9702 Gayton Road #167 Richmond, VA 23233 UNITED STATES dsensenig@gavinlawoffices.com Phone:804-658-1376
----------------------------	--

Applicant Information

Application No	77524371	Publication date	11/03/2009
Opposition Filing Date	04/30/2010	Opposition Period Ends	05/02/2010
Applicants	<p>Eilandt, Svenja Landstrasse 31 38667 Bad Harzburg, GERMANY</p> <p>Eilandt, Arne Landstrasse 31 38667 Bad Harzburg, GERMANY</p>		

Goods/Services Affected by Opposition


<p>Class 003. All goods and services in the class are opposed, namely: Soaps for personal use, perfumery, essential oils, cosmetics; stimulants, namely, essential oils for personal use</p>
<p>Class 005. All goods and services in the class are opposed, namely: Sanitary preparations for medical use; pharmaceutical preparations for human use of sexual stimulation comprised of vitamins, plant extracts, amino acids and mineral preparations, all for medical use; stimulants, namely, dietary and nutritional preparations, namely, vitamins, plant extracts, amino acids, and mineral preparations, all for medical use and for stimulating sexual encounters; vitamins and vitamin preparations; energy preparations and energy products, namely, medicinal plants, herbs and botanical extracts; dietetic foods adapted for medical use; dietetic sugar for medical use; dietary supplements; dietary and nutritional supplements comprised of vitamins, plants, amino acids and minerals; dietary and nutritionally fortified food products adapted for medical use; dietary food supplements; all-purpose disinfectants; bath oils and bath preparations for medical and therapeutic purposes; mineral food</p>


supplements and mineral water for medical purposes
--

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2793831	Application Date	04/24/2002
Registration Date	12/16/2003	Foreign Priority Date	NONE
Word Mark	EROS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1997/08/24 First Use In Commerce: 1997/08/24 Providing links to the web sites of others in the field of adult-themed entertainment		

U.S. Registration No.	2549369	Application Date	06/26/2000
Registration Date	03/19/2002	Foreign Priority Date	NONE
Word Mark	EROS GUIDE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/08/00 First Use In Commerce: 1997/08/00 DISSEMINATION OF ADVERTISING FOR THE GOODS AND SERVICES OF OTHERS VIA THE GLOBAL COMPUTER NETWORK		


U.S. Registration	3447396	Application Date	11/07/2007
-------------------	---------	------------------	------------


No.			
Registration Date	06/17/2008	Foreign Priority Date	NONE
Word Mark	EROS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 045. First use: First Use: 2007/05/14 First Use In Commerce: 2007/05/14 DATING SERVICES, NAMELY, PROVIDING PERSONAL PROFILES, PHOTOGRAPHS, EVENT LISTINGS, AND RELATED DATING SERVICES VIA THE INTERNET AND ELECTRONIC MAIL		

U.S. Registration No.	3656224	Application Date	11/07/2007
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	EROS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2007/03/05 First Use In Commerce: 2007/03/05 PROVIDING ONLINE CHAT ROOMS FOR TRANSMISSIONS OF MESSAGES AMONG COMPUTER USERS FOR THE PURPOSE OF USERS MEETING OTHER USERS TO ENCOURAGE DATING AND TO DEVELOP RELATIONSHIPS; STREAMING OF AUDIO AND VIDEO MATERIAL ON THE INTERNET		


U.S. Registration No.	2794843	Application Date	12/09/2002
Registration Date	12/16/2003	Foreign Priority Date	NONE
Word Mark	EROS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/11/16 First Use In Commerce: 2002/11/16		


	<p>PROVIDING DISSEMINATION OF ADVERTISING FOR THE GOODS AND SERVICES OF OTHERS VIA THE GLOBAL COMPUTER NETWORK; PROVIDING ON-LINE DIRECTORY INFORMATION SERVICES ALSO FEATURING HYPERLINKS TO OTHER WEB SITES; PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEB SITE AT WHICH USERS CAN LINK TO THE ADULT-THEMED WEB SITES OF OTHERS; PROMOTING THE GOODS AND SERVICES OF OTHERS BY MEANS OF OPERATING AN ON-LINE SHOPPING MALL WITH LINKS TO THE ADULT-THEMED RETAIL WEB SITES OF OTHERS; PROVIDING ONLINE SHOPPING SERVICE FEATURING ADULT THEMED PRODUCTS AND SERVICES VIA THE GLOBAL COMPUTER NETWORK</p> <p>Class 042. First use: First Use: 2002/11/16 First Use In Commerce: 2002/11/16</p> <p>PROVIDING CUSTOMIZED ON-LINE WEB PAGES FEATURING USER-DEFINED INFORMATION, WHICH INCLUDES SEARCH ENGINES AND ON-LINE WEB LINKS TO OTHER ADULT THEMED WEB SITES</p>
--	---

U.S. Registration No.	3134894	Application Date	04/16/2004
Registration Date	08/29/2006	Foreign Priority Date	NONE
Word Mark	EROS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 2001/11/01 First Use In Commerce: 2001/11/01</p> <p>Providing online publications via the global computer network, namely online magazines with subject matter related to adult entertainment and other adult-themed topics</p>		

U.S. Registration No.	3687879	Application Date	11/07/2007
Registration Date	09/29/2009	Foreign Priority Date	NONE
Word Mark	EROS GUIDE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 042. First use: First Use: 1997/08/29 First Use In Commerce: 1997/08/29</p>		

	Computer services, namely, creating an online community of adult-themed service providers and adult-themed service consumers; providing search engine services for obtaining data via a global computer network
--	---

U.S. Registration No.	3656223	Application Date	11/07/2007
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	EROS GUIDE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1997/08/29 First Use In Commerce: 1997/08/29 Providing online publications, namely, a magazine and articles in the field of adult-themed entertainment via a global computer network		

U.S. Registration No.	3687880	Application Date	11/07/2007
Registration Date	09/29/2009	Foreign Priority Date	NONE
Word Mark	EROS GUIDE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/08/29 First Use In Commerce: 1997/08/29 Promoting the goods and services of others by providing a website featuring links to the websites of others, advertisements and banners at which users can link to adult-themed products, services and entertainment; providing dissemination of advertising for the goods and services of others via a global computer network; providing directory information services in the area of adult-themed products, services and entertainment via a global computer network; providing an online computer database in the field of describing adult-themed products		

Attachments	76399779#TMSN.gif (1 page)(bytes) 76103675#TMSN.gif (1 page)(bytes) 76683718#TMSN.gif (1 page)(bytes) 76683773#TMSN.gif (1 page)(bytes) 78403509#TMSN.jpeg (1 page)(bytes) 76683715#TMSN.gif (1 page)(bytes) 76683716#TMSN.gif (1 page)(bytes) 76683717#TMSN.gif (1 page)(bytes)
-------------	---

	ERO SEXIN Opposition.pdf (6 pages)(1351063 bytes)
--	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/David J. Sensenig/
Name	Gavin Law Offices, PLC
Date	04/30/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Serial Number: 77/524,371

Filed: June 17, 2008

Published: November 3, 2009

Applicants: Arne Eilandt, Svenja Eilandt

Mark: ERO SEXIN

Goods: Cosmetics and Cleaning Preparations – for soaps for personal use, perfumery, essential oils, cosmetics; stimulants, namely, essential oils for personal use.

Pharmaceuticals – for sanitary preparations for medical use; pharmaceutical preparations for human use of sexual stimulation comprised of vitamins, plant extracts, amino acids and mineral preparations, all for medical use; stimulants, namely, dietary and nutritional preparations, namely, vitamins, plant extracts, amino acids, and mineral preparations, all for medical use and for stimulating sexual encounters; vitamins and vitamin preparations; energy preparations and energy products, namely, medicinal plants, herbs and botanical extracts; dietetic foods adapted for medical use; dietetic sugar for medical use; dietary supplements; dietary and nutritional supplements comprised of vitamins, plants, amino acids and minerals; dietary and nutritionally fortified food products adapted for medical use; dietary food supplements; all-purpose disinfectants; bath oils and bath preparations for medical and therapeutic purposes; mineral food supplements and mineral water for medical purposes.

International Classes: 0003 and 0005

GROUP KAITU, LLC

Opposer,

v.

ARNE EILANDT
and

SVENJA EILANDT

Applicants.

NOTICE OF OPPOSITION

Opposer, Group Kaitu, LLC ("Opposer") states as follows for its Notice of Opposition.

THE PARTIES

1. Opposer is a Delaware limited liability corporation with a place of business at 9702 Gayton Road, #167, Richmond, Virginia 23233. Among other things, Kaitu specializes in internet marketing.

2. Upon information and belief, the names and addresses of applicants for Serial Number 77/524,371 are Arne Eilandt and Svenja Eilandt Landstrasse 31, 38667 Bad Harzburg, Fed. Rep. Germany ("Applicants").

THE OPPOSER'S RELEVANT MARKS

3. From at least as early as December, 2003 and continuously through the present, Opposer has used the EROS and EROS GUIDE marks extensively since at least 2002 in connection with the on-line marketing of adult-themed goods and services, including the marketing of goods the same or similar to the goods identified in Serial Number 77/524,371 ("Application").

4. Attached as Exhibit 1 is a list of the marks owned and used by Opposer and that Opposer asserts in connection with its Notice in Opposition. The marks identified in Exhibit 1 are collectively referred to as the "EROS Marks" or as "EROS Mark(s)" to identify at least one of the EROS Marks.

APPLICATION AT ISSUE

5. Applicants filed the Application for registration of the ERO SEXIN mark ("Mark") on or about July 17, 2008 ("Application"). A copy of the Mark shown in TESS is attached as Exhibit 2. Applicants seek registration of the Mark in connection with the following goods:

Cosmetics and Cleaning Preparations – for soaps for personal use, perfumery, essential oils, cosmetics; stimulants, namely, essential oils for personal use

Pharmaceuticals – for sanitary preparations for medical use; pharmaceutical preparations for human use of sexual stimulation comprised of vitamins, plant extracts, amino acids and mineral preparations, all for medical use; stimulants, namely, dietary and nutritional preparations, namely, vitamins, plant extracts, amino acids, and mineral preparations, all for medical use and for stimulating sexual encounters; vitamins and vitamin preparations; energy preparations and energy products, namely, medicinal plants, herbs and botanical extracts; dietetic foods adapted for medical use; dietetic sugar for medical use; dietary supplements; dietary and nutritional supplements comprised of vitamins, plants, amino acids and minerals; dietary and nutritionally fortified food products adapted for medical use; dietary food supplements; all-purpose disinfectants; bath oils and bath preparations for medical and therapeutic purposes; mineral food supplements and mineral water for medical purposes

6. Upon information and belief, at the time they filed the Application, Applicants were aware of the EROS Mark(s) and the Opposer's prior use of the EROS Mark(s) in connection with the goods and/or services identified in the Application, or at the very least in connection with similar goods and/or services.

LIKELIHOOD OF CONFUSION

7. Opposer's use of the EROS Mark(s) in connection with the goods and services identified in Exhibit 1 long pre-date the filing of Application or of any use by the Applicant of the Mark.

8. The designation Applicants seek to register, namely ERO SEXIN, so resembles Opposer's Mark(s) as to be likely when applied to the goods and services identified in the Application to cause confusion or mistake or to deceive persons by creating the erroneous impression that Applicants' goods or services originate with or come from Opposer or from the same source as Opposer's goods or services, or that Applicants' goods or services are authorized or endorsed by or are sponsored by or connected in some way with Opposer or its goods and services. In other words, due to the similarities of the marks and the goods and services involved and other factors, confusion is likely between Opposer's and Applicants' marks pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. The application should be rejected on the grounds that the mark is confusingly similar to a trademark(s) in which the Opposer has superior rights.

10. Opposer will be damaged if application Serial Number 77/524,371 should be granted because, among other things, Applicant will obtain statutory rights in violation and derogation of the established prior ownership rights of Opposer.

WHEREFORE, Opposer prays that its Opposition be sustained and that application Serial Number 77/524,371 be rejected.

Date: April 30, 2010.

Concurrent with this filing, Opposer is submitting the applicable fee of \$600.00 via American Express.

Respectfully submitted,

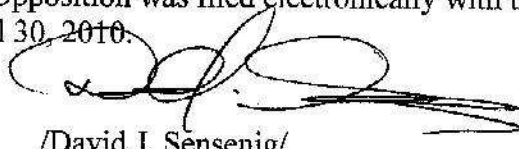


/David J. Sensenig/

David J. Sensenig, Esq.
Gavin Law Offices, PLC
2500 Gaskins Road, Suite B
Richmond, Virginia 23238

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Notice of Opposition was filed electronically with the trademark Trial and Appeal Board on April 30, 2010.



/David J. Sensenig/

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Notice of Opposition was served by first class U.S. mail, postage prepaid, to the address below on April 30, 2010, such being the Correspondent address listed in the TARR system as of this date:

Philana S. Handler, Esquire
Whitham Curtis Christofferson & et al.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190-5244



/David J. Sensenig/

Owner	Trademark	Country	Application No.	Registration No.	Registration Date	Classes	Status
Group Kaitu LLC	EROS	United States of America	76399779	2793831	16 Dec 2003	41	Registered
Group Kaitu LLC	EROS GUIDE	United States of America	76103675	2549369	19 Mar 2002	35	Registered
Group Kaitu, LLC	EROS	United States of America	76683718	3447396	17 Jun 2008	45	Registered
Group Kaitu, LLC	EROS	United States of America	76683773	3656224	21 Jul 2009	38	Registered
Group Kaitu, LLC	EROS	United States of America	78192583	2794843	16 Dec 2003	35,42	Registered
Group Kaitu, LLC	EROS	United States of America	78403509	3134894	29 Aug 2006	41	Registered
Group Kaitu, LLC	EROS GUIDE	United States of America	76683715	3687879	29 Sep 2009	42	Registered
Group Kaitu, LLC	EROS GUIDE	United States of America	76683716	3656223	21 Jul 2009	41	Registered
Group Kaitu, LLC	EROS GUIDE	United States of America	76683717	3687880	29 Sep 2009	35	Registered

TM Administrator - END OF REPORT

IPPO WebTMS: printed 29 Apr 2010 14:59

Exhibit 1